

WAGANAKISING ODAWAK STATUTE _____
ELECTION BOARD

SECTION I. PURPOSE

The Election Board conducts all general and special elections and adopts rules and regulations governing elections. This Statute repeals and replaces Waganakising Odawak Statute 2010-019 and previous Statutes WOS 2004-06 and 2006-026.

SECTION II. AUTHORITY

A. The Election Board is an independent entity created by the Constitution and shall be adequately funded to fulfill its purposes.

B. The Election Board shall have the authority to employ their own staff to fulfill their duties.

C. The Election Board shall prepare and present an annual budget directly to the Tribal Council for funding which will be based on the need to fulfill its duties.

D. The Election Board shall conduct all general and special elections.

E. The Election Board shall adopt rules and regulations governing elections. These rules may be amended as needed; however, no amendments to such rules and regulations can take effect while an Election is in progress. Such rules shall be posted on the Tribal website and within the Administrative/Governmental building.

F. The Election Board shall adopt rules and regulations governing Regular, Special and Emergency meetings, minutes and phone-polls. These rules may be amended as needed; however, no amendments to such rules and regulations can take effect while an Election is in progress. Such rules shall be posted on the Tribal website and within the Administrative/Governmental building.

**SECTION III. COMPOSITION, APPOINTMENTS, OATH OF OFFICE,
VACANCIES, AND REMOVAL OF ELECTION BOARD**

1 **A.** Composition

2
3 **1.** The Election Board shall be appointed by Tribal Council and shall consist of five
4 (5) enrolled Tribal citizens, eighteen (18) years of age or older who meet the voting
5 eligibility requirements.

6
7 **2.** Two or more members of the same immediate family shall not serve on the same
8 Election Board at the same time. Although not included in the definition of immediate
9 family, citizens related as son-in-law, daughter-in-law, and persons who reside within the
10 same household of the member cannot serve on the same Election Board at the same
11 time.

12
13 **3.** Election Board Officers - The Election Board shall organize itself with a
14 Chairperson, Vice-Chairperson and a Secretary/Treasurer.

15
16 **4.** Election Board members cannot be candidates for any Tribal elected position
17 while serving on the Election Board.

18
19 **B.** Appointment and Terms

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21 **1.** The initial appointment of the Election Board will be for staggered terms
22 consisting of two (2) two year terms and three (3) four year terms. The terms thereafter
23 shall be for four (4) years.

24
25 **2.** There shall be no limit on reappointment.

26
27 **3.** Election Board members shall serve on no more than two (2) Tribal Boards or
28 Commissions simultaneously.

29
30 **4.** Members will serve until their successors are appointed and sworn in.

31
32 **C.** Oath of Office

33
34 **1.** Election Board Members are to be sworn in under an oath of office prepared and
35 administered by the Tribal Court within thirty (30) days of their appointment.

1
2 **2.** Election Board members shall be subject to the Constitutionally Mandated Rules
3 of Conduct for Officials of Tribal Government.
4

5 **D.** Vacancies
6

7 In the event a vacancy occurs on the Election Board by virtue of death, resignation, or
8 removal, the Tribal Council shall appoint a Tribal citizen who meets the eligibility requirements
9 for the remainder of the unexpired term.
10

11 **E.** Removal of Members of Election Board Upon presentation of a petition signed by at least
12 one hundred (100) members alleging neglect of duties or intentional wrongdoing, and a hearing
13 where the accused is afforded proper due process, the Judiciary may remove Election Board
14 members for good cause.
15

16 **SECTION IV. OATH OF OFFICE**
17

18 At the first regularly scheduled Tribal Council meeting, at least thirty (30) days following
19 the Election Board's certification of the election results, the Tribal Court shall conduct the
20 swearing in ceremony for the newly elected Officials. Incoming elected Officials terms shall
21 commence, and outgoing Council members' terms shall expire, upon such swearing in.
22

23 **SECTION V. AUTHORITY TO REQUEST INFORMATION**
24

25 The Election Board shall have the authority to request from the Tribal Enrollment
26 Department a list of enrolled Tribal citizens who have or will have attained the age of eighteen
27 by the Election Date. The list of Tribal citizens organized in alphabetical order or as nearly so as
28 possible, must include their names, enrollment numbers and addresses as current at the time the
29 list is being issued.
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31 **SECTION VI. FRIVOLOUS CLAIMS, FILINGS AND LAW SUITS**
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33 All claims, filings and law suits arising out of the Constitutional provisions regarding
34 Election and Election Board, this statute, the Tribal Election Regulations or the Election Board
35 Policies and Procedures, for which has been clearly and convincingly shown that have been
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1 prosecuted in bad faith for purposes of harassment only, and that there was no reasonable
2 expectation of success on the part of the affirmatively claiming party, shall be liable for
3 reasonable attorney fees incurred in the defense of said frivolous claim, filing or law suit.
4

5 **SECTION VII. CIVIL AND CRIMINAL OFFENSES AND PENAL PROVISIONS**

7 **A. Conflict of Interest**

9 An Election Board member shall recuse him or herself from any certification involving
10 an immediate family member. An Election Board member shall also recuse him or herself from
11 any certification involving a son or daughter-in-law, or any members of the same household.
12

13 **B. Bribery of Electors**

15 It is unlawful to knowingly give, cause to be given, or promise to be given, any money to
16 any person as reimbursement for money, or other thing of value, spent by such person in whole
17 or in part for a benefit at any Tribal election; provided, however, that it shall not be unlawful for
18 any candidate personally or through an agent to provide transportation of any voter to the polls.
19

20 **C. Coercion of Elector**

22 It is unlawful to make use of force, or to request another person to use or threaten force,
23 in order to influence any person's vote in any election, or to prevent any person from voting in
24 any election.
25

26 **D. Intimidation of Tribal Citizen Employees by Employer**

28 **1.** It is unlawful for any employer to threaten a Tribal citizen employee with
29 dismissal from employment, reduction of pay, loss of seniority, transfer, or less favorable
30 working conditions, for the purpose of influencing such employee to vote or refrain from
31 voting, or to vote for any particular person in any Tribal Election.
32

33 **2.** As used in this section the term "employer" means any entities, or natural persons
34 and their agents, employing Tribal citizens, including contractual relationships, over
35 which the Tribe may properly exercise criminal jurisdiction.

1
2 **E. Interference With or Corruption of Election Officer**
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4 It is unlawful for any persons to offer or give a bribe, money or any other unduly benefit,
5 to any member of the Election Board, or to influence or attempt to influence any of said officers
6 in the performance of their official duties by means of force, or threats or promise of any nature.
7

8 **F. Violation of Duty by Election Board**
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10 It is unlawful for any member of the Election Board to knowingly and willfully fail or
11 neglect any duty under any part of this statute in the manner prescribed by this statute, or to
12 accept any money or other thing of value from any candidate or from anyone acting or
13 purporting to act on behalf of any candidate. Members of the Election Board shall not endorse
14 any candidate while performing duties under this statute.
15

16 **G. Tampering With Election Ballots**
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18 It is unlawful for persons to tamper with election ballots, tallies, voting materials, or any
19 compilation summaries, or totals of voting results by destroying, defacing, writing on, changing
20 marks or totals, on any such ballots or voting materials or results.
21

22 **H. Use of Tribal Resources**
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24 It is unlawful for any Tribal employee over whom the Tribe may properly exercise
25 criminal jurisdiction to interfere with any Tribal Election campaign by using Tribal resources to
26 actively and overtly encourage and support any candidate, by allowing a candidate access to
27 confidential information, or by providing any candidate any service or thing of value.
28

29 **I. Penalties**
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31 A person convicted of an offense under this section may be sentenced to a jail term not to
32 exceed one hundred eighty (180) days or to a fine not to exceed five thousand dollars (\$5,000.00)
33 or to both.
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35 **SECTION VIII. AMENDMENTS**

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1
2 **A.** The Election Board may make recommendations to the Tribal Council regarding future
3 amendments to this Statute.

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5 **B.** No amendments to this Statute can take effect while an election is in progress.
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7 **SECTION IX. SAVINGS CLAUSE**
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9 In the event that any phrase, provision, part, paragraph, subsection or section of this
10 Statute is found by a court of competent jurisdiction to violate the Constitution, laws or
11 ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part,
12 paragraph, subsection or section shall be considered to stand alone and to be deleted from this
13 Statute, the entirety of the balance of the Statute to remain in full and binding force and effect.
14

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16 **SECTION X. EFFECTIVE DATE**
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18 Effective upon signature of the Executive or thirty (30) days from Tribal Council
19 approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal
20 Council override of the veto.
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